

IN THE MATTER OF:)	
)	
UNITED AGRONOMY, LLC.)	
)	FINAL ORDER
EPA Est. #: 074049-ND-001 and)	
EPA Est. #: 074049-ND-0003)	
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §22.18, of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

08.28.06
DATE

SIGNED
Elyana R. Sutin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. **FIFRA-08-2006-0009**

IN THE MATTER OF:)	
)	
United Agronomy, LLC)	COMBINED COMPLAINT AND
EPA Est. #: 074049-ND-001 and)	CONSENT AGREEMENT
EPA Est. #: 074049-ND-003)	
Respondent)	
_____)	

This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This combined complaint and consent agreement ("consent agreement") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

A. JURISDICTION

1. This Combined Complaint and Consent Agreement ("consent agreement") is issued to United Agronomy, LLC ("Respondent") for two violations of FIFRA § 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L).
2. The undersigned Environmental Protection Agency ("EPA"), Region 8 officials issue this consent agreement under the authority vested in the Administrator of EPA by section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).
3. This section authorizes EPA to bring an action under section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), for civil administrative penalties against Respondent who has violated a requirement or prohibition of FIFRA.
4. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This combined complaint and consent agreement ("consent agreement") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

B. ALLEGED VIOLATION

1. Respondent is a "person" within the meaning of section 2(s) of FIFRA, 7 U.S.C. section 136(s), and therefore subject to regulation.

2. Respondent is a “distributor/seller” as defined by section 2(gg) of FIFRA, 7 U.S.C. section 136(gg) and a “producer” as defined by section 2(w) of FIFRA, 7 U.S.C. 136(w).
3. Respondent produces, sells and distributes registered “pesticides” within the meaning of section 2(u) of FIFRA, 7 U.S.C. section 136(u), at two establishments. The two establishments are:

United Agronomy, LLC
EPA Est. #: 074049-ND-001
317 First Ave. S.E.
Berthold, ND 58718

and

United Agronomy, LLC
EPA Est. #: 074049-ND-003
One Washington Ave.
Carpio, ND 58725

4. Under section 12(a)(2)(L) of FIFRA, 7 U.S.C. section 136j(a)(2)(L) an annual report for each establishment is required by March 1st for the previous year.
5. EPA reviewed its records and determined that Respondent did not submit the “Pesticide Report for Pesticide-Producing and Device-Producing Establishments” pursuant to section 7 FIFRA, 7 U.S.C. section 136(e) for calendar year 2005, by March 1, 2006. Respondent is therefore in violation of FIFRA for not submitting a report for establishments listed in this consent agreement.
6. Upon consideration of the nature, circumstances, extent and gravity of the violation and Respondent’s ability to continue in business, the size of Respondent’s business, prior history of compliance, degree of culpability, lack of economic benefit resulting from the violations, its good faith and immediate effort to comply once informed of the violations, other matters as justice may require, and upon consideration of the entire record herein, EPA offers this consent agreement under its expedited enforcement procedures in order to settle the violation based upon the findings noted above, for the total civil penalty amount of **seven thousand eight hundred dollars (\$7,800.00).**

C. CIVIL PENALTY

1. The Respondent signing below admits that EPA has jurisdiction over the subject matter alleged in the consent agreement, neither admits nor denies the specific factual allegations contained in the consent agreement, and consents to the assessment of the penalty as stated in section B.6, above.
2. Within 30 days of receiving the Final Order in this matter, Respondent agrees and consents that Respondent will pay a civil penalty **seven thousand eight hundred dollars (\$7,800.00).** If the due date falls on a weekend or legal Federal holiday,

the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank described below. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day. Respondent shall make this **one** installment payment by remitting a cashier's or certified check for the specified amount, including the name and docket number of this case (the docket number is listed in the first page of this consent agreement), for the this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859
Mellon Client Service Center Rm 154-0670
500 Ross Street
Pittsburgh, PA 15251-6859

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004
TREAS NYC/CTR/
BNF=/AC-68011008

3. A copy of the check shall be sent simultaneously to:

Tim Osag
Senior Enforcement Coordinator
Technical Enforcement Program (8ENF-T)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

And

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

1. In the event payment is not received by the specified due date, interest accrues from the date of the final consent order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest accrues). Respondent agrees and consents that if Respondent fails to pay the penalty amount on the due date set forth in paragraph C.2. above, any unpaid balance thereof, shall become due and owing by the Respondent, or EPA, in its sole discretion, may waive all or part of such acceleration.
3. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 61st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.

D. TERMS AND CONDITIONS

1. Nothing in this consent agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this consent agreement.
2. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this consent agreement and to bind the party he/she represents to the terms and conditions of this consent agreement.
3. Each party shall bear its own costs and attorneys fees in connection with this matter.
4. Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this consent agreement pursuant to 40 C.F.R. § 22.15. By signing and returning of this consent agreement to EPA, the Respondent waives the opportunity for a hearing pursuant to section 554 of the Administrative Procedure Act, 5 U.S.C. §554.
5. The parties enter into this consent agreement pursuant to 40 C.F.R. § 22.13(b), upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's parent, affiliates, heirs, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this consent agreement. This consent agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violation alleged in the consent agreement.

6. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

In the Matter of: United Agronomy, LLC
Docket No: FIFRA-08-2006-0009
(Continued)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice, Complainant.

Date: 8/24/06 By: SIGNED
Elisabeth Evans, Director
Technical Enforcement Program

Date: 24 August 2006 By: SIGNED
Michael T. Risner, Director
David Janik, Supervisor
Legal Enforcement Program

Date: 8/24/2006 By: SIGNED
Eduardo Quintana, Attorney
Legal Enforcement Program

In the Matter of: United Agronomy, LLC
Docket No: FIFRA-08-2006-0009
(Continued)

United Agronomy, LLC,
Respondent.

Date: **7-31-06** By: **SIGNED**
Name, Title: **R. J. THEIS, Manager**

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT/EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **UNITED AGRONOMY, LLC., DOCKET NO.: FIFRA-08-2006-0009** was filed with the Regional Hearing Clerk on August 29, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on August 25, 2006, to:

Robert J. Theis
P.O. Box 188
Berthold, ND 58718

And faxed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center Accounting
Fax: 513-487-2063

August 29, 2006

SIGNED _____
Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON AUGUST 29, 2006**

